

### **REMARKS**

Applicants reply to the Office Action dated October 7, 2009, within a one month extension of time. Claims 1-3 and 5-11 were pending in the application, and the Examiner rejects claims 1-3 and 5-11. Applicants cancel claim 11 without prejudice in favor of filing one or more claims disclosing the same subject matter. Applicants add new claims 12-20. Reconsideration of this application is respectfully requested.

Support for the new claims and amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by the new claims and amendments. Support for the amendments can be found at, for example, paragraphs [0069] and [0071] of the specification and in the drawings. Support for the new claims 12 - 20 can be found at, for example, paragraphs [0069] and [0078] of the specification and in the drawings.

The Examiner rejects claim 11 under 35 USC 101 because the claim embraces more than one statutory class. Applicants cancel claim 11, so this rejection is moot.

The Examiner next rejects claims 1-3 and 11 under 35 USC 112 as being indefinite. Applicants respectfully disagree with these rejections, but Applicants amend certain claims (without prejudice or disclaimer) in order to clarify the patentable aspects of certain claims and to expedite prosecution. For example, regarding the recitation "the first grasping portion of the first grasping plate" in claim 1, Applicants amend the claim to recite "the retaining portion of the first grasping plate" (emphasis added). Applicants cancel claim 11, so the rejection regarding claim 11 is moot.

The Examiner next rejects claims 1, 5 and 6-10 under 35 USC 102(b) as being anticipated by Kees, Jr. et al., US Patent No. 4,340,061 ("Kees"). Applicants respectfully disagree with these rejections, but Applicants amend certain claims (without prejudice or disclaimer) in order to clarify the patentable aspects of certain claims and to expedite prosecution.

As seen in, for example, figures 8 to 12, and the descriptions in paragraphs [00100] to [0115] of the specification, the holder of the claimed invention is a multifunctional tool which can address various operations by itself. Thus, there is no need to use a plurality of tools, and surgical manipulations become more convenient and efficient (see, for example, paragraph 0079 of the specification). In particular, one feature of the claimed invention is that the first grasping plate includes an edge portion which defines the shape of the opening, the end portion of the edge portion being inserted into a tube of the tubular tissue. According to the claimed invention, if a tissue to be grasped is a tubular tissue which has a stump and the end portion of the edge portion is inserted into

a tube of the tubular tissue to grasp the tubular tissue so the tissue hangs suspended from a tip portion of the edge portion, the tubular tissue can be grasped in a more stable manner by pressing the side surface of the tubular tissue grasped by the covering portion (e.g., paragraph 0080 of the specification). As such, Kees fails to disclose each element of amended independent claims 1, 5 and 6.

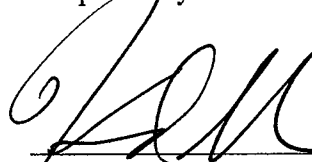
Dependent claims 7-10 variously depend from independent claim 6, so dependent claims 7-10 are differentiated from Kees for the same reasons as set forth above, in addition to their own unique features.

The Examiner next rejects claims 2 and 3 under 35 USC 103(a) as being unpatentable over Kees in view of Mandel et al, US Publication No. 2002/0177863 ("Mandel"). Applicants respectfully disagree with these rejections, but Applicants amend certain claims (without prejudice or disclaimer) in order to clarify the patentable aspects of certain claims and to expedite prosecution.

Claims 2 and 3 variously depend from independent claim 1. Independent claim 1 is differentiated from Kees as set forth above, and Mandel does not cure such deficiencies. Moreover, claims 2 and 3 are differentiated from Kees, Mandel and any combination thereof, for the same reasons as set forth above, in addition to their own unique features.

In view of the above remarks and amendments, Applicants respectfully submit that all pending claims properly set forth that which Applicants regard as their invention and are allowable over the cited references. Accordingly, Applicants respectfully request allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject Application. Applicants authorize and respectfully request that any fees due be charged to Deposit Account No. 19-2814.

Respectfully submitted,



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